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FISCAL IMPACT STATEMENT

LS 6866

BILL NUMBER: SB 409

NOTE PREPARED: Feb 18, 2004

BILL AMENDED: Feb 16, 2004

SUBJECT: Public Defense Fund.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR: Rep. Kuzman

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It requires the Public Defender Commission to give priority to certified claims for reimbursement in capital cases.
- B. It prorates reimbursement of certified claims in noncapital cases.
- C. It establishes a Judicial Administration Fee of \$1 in the period beginning July 1, 2004, and ending June 30, 2005, and \$2 after June 30, 2005.
- D. It requires court clerks to semi-annually distribute to the Auditor of State for deposit in the state General Fund 100% of the Judicial Administration Fee collected.
- E. It increases the amount transferred semi-annually for deposit into the Public Defense Fund from \$1,200,000 to \$1,700,000 in FY 2005 and \$2,200,000 in following state fiscal years.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) *Background:* The Public Defense Fund provides reimbursement of 50% of a county's certified expenditures for indigent defense services in capital cases and 40% of the certified expenditures for noncapital cases. Noncapital reimbursements may be suspended if the balance of the Fund would be reduced below \$250,000, and reimbursements may be prorated.

The Public Defense Fund receives two sources of funding from the state General Fund, as seen below.

Source	Amount (per transfer)	Timing
IC 33-19-7-5(c) Transfer	\$1.2 M	June 30 and December 31
FY 2004-2005 Biennial Budget	\$2.3 M	January 1 and July 1

Under current law, if the Public Defense Fund is reduced below \$250,000 by reimbursing county certified expenditures, the Public Defense Commission is required to wait for the first transfer of state General Fund monies before reimbursing counties. Subsequently, reimbursement may be prorated to avoid reaching a balance below \$250,000. This bill would eliminate this provision and allow the fund to be reduced to a zero balance if certified claims by counties are equal to or exceed the balance in the fund. If certified claims are greater than the fund balance, the reimbursements would be prorated.

The following scenario illustrates how this bill could affect reimbursements to counties.

As of December 28, 2003, the Public Defense Fund received reimbursement requests totaling \$3.8 M, and the balance in the Fund was \$1.5 M. Under current law, the Public Defense Commission would suspend payments for noncapital cases, wait for a \$1.2 M state General Fund transfer which will occur on December 31, and then reimburse counties for a prorated portion of their request. Since the Fund will have \$2.7 M, with \$2.45 M available for reimbursement, 64% of the total requested amount could be reimbursed.

As proposed by this bill, the Public Defense Commission could reimburse the costs of \$2.7 M, or 71% of the \$3.8 M request.

Counties Affected: The 45 counties with requests pending prior to December 31, 2003, included: Adams, Benton, Blackford, Carroll, Clark, Decatur, Fayette, Floyd, Fountain, Fulton, Greene, Hancock, Henry, Jasper, Jay, Jennings, Knox, Kosciusko, Lake, LaPorte, Madison, Marion, Miami, Monroe, Montgomery, Noble, Ohio, Orange, Parke, Perry, Pulaski, Rush, Scott, Shelby, Spencer, Steuben, Sullivan, Switzerland, Vanderburg, Vermillion, Vigo, Warren, Washington, White, and Whitley.

Explanation of State Revenues: (Revised) A Judicial Administration Fee would be charged on all civil, small claims, and probate filings, all criminal cases where a person is convicted of an offense, all juvenile cases, and all cases where a person is found to have violated an infraction or an ordinance. The fee would be \$1 for the period between July 1, 2004, and ending June 30, 2005. The fee would increase to \$2 beginning July 1, 2005.

For FY 2005, the \$1 fee would generate new revenue of \$1.05 M. For FY 2006 and each subsequent year, the fee would generate new revenue of \$2.1 M.

The proceeds from this fee would be initially deposited in the state General Fund. But twice a year, on June 30th and December 31st, a transfer of money would be made to the Public Defense Fund. Under current law, the amount that is transferred every six months is \$1.2 M. As proposed, the amount that is transferred would be \$1.7 M on December 31, 2004, and June 30, 2005. For each six-month period after June 30, 2005, \$2.2 M would be transferred from the state General Fund to the Public Defense Fund.

	Judicial Administration Fee	New Revenue Deposited in State General Fund	Added Revenue Transferred to Public Defense Fund	Net Effect on State General Fund
July 1 to December 31, 2004	\$1	\$528,494	\$500,000	\$28,494
January 1 to June 30, 2005	\$1	\$528,494	\$500,000	\$28,494
July 1 to December 31, 2005	\$2	\$1,056,987	\$1,000,000	\$56,987
January 1 to June 30, 2006	\$2	\$1,056,987	\$1,000,000	\$56,987

The following table shows the estimated new revenue that is generated for 12 months based on a \$1 fee.

	Trial Courts	City and Town Courts	Marion County Small Claims Courts	Totals
Felonies and Misdemeanors	\$51,868	\$21,086		\$72,954
Infractions	\$378,449	\$132,470		\$510,918
Ordinance Violations	\$51,636	\$12,707		\$64,343
Civil and Probate	\$149,567	\$11,258		\$160,825
Juvenile	\$13,521			\$13,521
Small Claims	<u>\$167,855</u>	<u> </u>	<u>\$66,570</u>	<u>\$234,425</u>
Totals	<u>\$812,896</u>	<u>\$177,521</u>	<u>\$66,570</u>	<u>\$1,056,987</u>

The following table shows the amount of new revenue generated for 12 months based on a \$2 fee.

	Trial Courts	City and Town Courts	Marion County Small Claims Courts	Totals
Felonies and Misdemeanors	\$103,736	\$42,172		\$145,909
Infractions	\$756,898	\$264,939		\$1,021,837
Ordinance Violations	\$103,272	\$25,414		\$128,686
Civil and Probate	\$299,134	\$22,516		\$321,650
Juvenile	\$27,043			\$27,043
Small Claims	<u>\$335,709</u>	<u> </u>	<u>\$133,141</u>	<u>\$468,850</u>
Totals	<u>\$1,625,791</u>	<u>\$355,042</u>	<u>\$133,141</u>	<u>\$2,113,974</u>

Explanation of Local Expenditures: (Revised) This bill increases the amount of funds available in the Public Defense Fund. The Public Defense Fund reimburses counties for the costs of providing legal defense for indigent criminal defendants. The fund will reimburse counties for 50% of the qualified costs in death penalty cases and 40% in felony cases that are not death penalty cases.

Background: Public Defense Fund expenditures for partially reimbursing counties for the costs of capital cases are reported for each fiscal year between 1998 and 2003 in the following table.

Reimbursements for Capital Cases by Fiscal Year					
<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$799,450	\$526,512	\$378,209	\$712,055	\$473,317	\$413,805

Reimbursements to counties for qualified noncapital cases as reported for FY 1998 through 2003 are provided in the following table.

Reimbursements (in Millions) for Noncapital Cases By Fiscal Year					
<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$1.03	\$2.18	\$3.30	\$3.66	\$4.86	\$5.22

Explanation of Local Revenues: See *Explanation of State Expenditures*.

State Agencies Affected: Public Defender Commission.

Local Agencies Affected: Counties receiving Public Defense Fund reimbursements.

Information Sources: IC 33-19-7-5 and HEA 1001–2003.

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